

Exhibit 5

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION

DOLORES LOZANO,
Plaintiff,

v.

BAYLOR UNIVERSITY; ART BRILES;
IAN MCCAWE,
Defendants.

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Civil Action No. 6:16-CV-00403-RP

DEFENDANT BAYLOR UNIVERSITY'S WITNESS LIST

TO THE HONORABLE JUDGE ROBERT PITMAN:

Pursuant to the Court's orders and Federal Rule of Civil Procedure 26(a)(2), Defendant Baylor University submits this list of fact witnesses who will or may be called to testify at trial:

I. FACT WITNESSES (WILL CALL)

Art Briles (Live)

Hartline Barger LLP
1980 Post Oak Blvd., Suite 1800
Houston, Texas 77056
(713) 759-1990 (Tel.)

Briles is the former Head Football Coach at Baylor University and a Defendant in this lawsuit.

Devin Chafin (Deposition)

4208 Oakbrook Drive
Oklahoma City, OK 73115

Chafin is Plaintiff's former boyfriend. He has knowledge of the truth or falsity of the allegations in Plaintiff's complaint regarding his conduct.

Dr. Kevin P. Jackson (Live)

c/o Lisa Brown
THOMPSON & HORTON LLP
3200 Southwest Freeway
Houston, Texas 77027

Dr. Jackson is the Vice President for Student Life at Baylor University. He has knowledge of student life policies and programs and efforts to implement programs to prevent sexual assault and dating violence.

Jeff Lebby (Deposition)

Offensive Coordinator/Quarterbacks
University of Oklahoma
550 Parrington Oval
Norman, OK 73019
(662) 915-7890

Lebby was an assistant football coach at Baylor University. Plaintiff alleges that she spoke with Lebby about Chafin. Plaintiff also contacted Lebby about a job reference after graduation.

Dolores Lozano (Live)

c/o Sheila Haddock
Alexander Zalkin
Irwin Zalkin
The Zalkin Law Firm, P.C.
10590 W. Ocean Air Drive, Suite 125
San Diego, California 92130

Dolores Lozano is the Plaintiff in this suit. She may be called upon to testify regarding any and all of the allegations in her lawsuit, deposition, and discovery responses, including but not limited to her knowledge of her relationship and interactions with Devin Chafin; her knowledge regarding instructions and advice given to her regarding the making of police reports and filing a complaint with Baylor University's Office of Judicial Affairs; and her knowledge of any incidents or occurrences giving rise to her claim for damages.

Lillian Lozano (Deposition)

2719 Sabine Court
Pearland, Texas 77584

Lillian Lozano may testify regarding her knowledge of her daughter, Dolores Lozano; knowledge regarding communications and conversations with Dolores Lozano regarding Devin Chafin; Dolores Lozano's relationship and interaction with Devin Chafin; knowledge regarding instructions and advice given to Dolores Lozano regarding the making of police reports and interaction with Devin Chafin; knowledge that she had forbidden Dolores Lozano from being around Devin Chafin prior to the incident which occurred on or about January 18, 2015, involving Devin Chafin and Jennifer Kerr; knowledge regarding communications with Waco Police Department officers; knowledge regarding descriptions of Dolores Lozano given to Waco Police Department; knowledge regarding her experience as law enforcement officer; knowledge regarding personal history of Dolores Lozano; knowledge regarding information regarding Devin Chafin conveyed to her by Dolores Lozano and friends of Dolores Lozano.

Lisa MacMaster (Live)

c/o Lisa A. Brown
Thompson & Horton LLP
3200 Southwest Freeway
Houston, Texas 77027

McMaster is a nurse practitioner at Baylor Health Services. Plaintiff had an appointment with McMaster in April 2014. McMaster's knowledge and opinions are reflected in Plaintiff's health records that were produced in this case.

Ian McCaw (Live)

c/o Thomas P. Brandt and Stephen D. Henninger
Fanning, Harper, Martinson, Brandt, & Kutchin P.C.
Two Energy Square
4849 Greenville Ave., Suite 1300
Dallas, Texas 75206

McCaw is the former Director of Athletics at Baylor University.

Bethany McCraw (Live)

c/o Lisa Brown
Thompson & Horton LLP
3200 Southwest Freeway
Houston, Texas 77027

McCraw is the Associate Dean for Student Conduct Administration (Judicial Affairs) at Baylor University. She has knowledge of student conduct administration, actions undertaken by Baylor in response to the 2011 Dear Colleague Letter, and policies and procedures relating to prevention of violence against students. She has knowledge of communications showing that Plaintiff was informed how to contact the Judicial Affairs Office. Her knowledge is reflected in the declaration that she signed in this case, which was provided to Plaintiff.

Nancy Post (Live)

c/o Lisa A. Brown
Thompson & Horton LLP
3200 Southwest Freeway
Houston, Texas 77027

Post is the Associate Athletics Director for Business, Baylor University Athletics Department. Post has knowledge of whether she was informed of Plaintiff's assault allegations against Chafin.

Sarah Dorrell Ritter (Live)

c/o Lisa A. Brown
Thompson & Horton LLP
3200 Southwest Freeway
Houston, Texas 77027

Ritter was the case manager for Student Life at Baylor University in 2014. She has knowledge regarding her communications with Plaintiff in the spring of 2014 regarding Devin Chafin. Her knowledge is reflected in the declaration that she signed, which was provided to the Plaintiff.

Dr. Martha Lou Scott (Live)

c/o Lisa A. Brown
Thompson & Horton LLP
3200 Southwest Freeway
Houston, Texas 77027

Dr. Scott was the Associate Vice President, Student Life at Baylor University in the spring of 2014. She met with Plaintiff regarding her allegations about Devin Chafin, assisted with academic accommodations, and referred her to Judicial Affairs. She has knowledge regarding programs and resources to prevent sexual and interpersonal violence. Her knowledge is reflected in the declaration that she signed, which was provided to the Plaintiff.

Colin Shillinglaw (Deposition)

c/o Gaines West
West, Webb, Allbritton & Gentry
1515 Emerald Plaza
College Station, Texas 77845

Shillinglaw formerly worked in Baylor's athletic department. He exchanged text messages with Plaintiff's mother in April 2014. Those messages have been produced in this case.

Wes Yeary (Deposition)

22614 Westbrook Cinco Lane
Katy, Texas 77450

Yeary was Chaplain for Baylor Athletics and allegedly was informed by Plaintiff of her allegations of assault in 2014. He has knowledge of his meetings and correspondence with Plaintiff. He provided spiritual counseling.

II. FACT WITNESSES (MAY CALL)

Angelika Alvarado (Live)

3115 Pine Avenue
Waco, Texas 76708
(254) 750-7500

City of Waco Police Department officer with knowledge regarding Waco Police Department incident report/case number 14-7098; knowledge regarding information provided by Officer Morsbach regarding report made by Dolores Lozano and witness Madison Thein.

Officer Mark Barrington (Live)

3115 Pine Avenue
Waco, Texas 76708
(254) 750-7500

Waco Police Department Officer with knowledge regarding an incident reported to Waco Police Department by Dolores Lozano on November 12, 2013 regarding incident reportedly occurring on October 20, 2013 involving her roommate; knowledge regarding phone communication with Dolores Lozano regarding reported incident involving her former roommate.

Paul Bradshaw (Live)

c/o Lisa A. Brown
Thompson & Horton LLP
3200 Southwest Freeway
Houston, Texas 77027
713-554-6741

Bradshaw is the Senior Associate Athletics Director for Internal Affairs at Baylor. He was the athletic department liaison between Judicial Affairs (Student Conduct Administration) and the Athletics Department during Devin Chafin's period of enrollment and has knowledge of disciplinary processes.

Officer Adam Brewer (Live)

3115 Pine Avenue
Waco, Texas 76708
(254) 750-7500

Waco Police Department Officer with knowledge regarding an incident occurring on January 18, 2015 at the Louann Condominiums in Waco, Texas involving a reported assault on Dolores Lozano by Jennifer Kerr; knowledge of WPD Incident Report #15-1013 (CITY 000637 – CITY 000643).

Officer Christopher Charanza (Live)

3115 Pine Avenue
Waco, Texas 76708
(254) 750-7500

Waco Police Department Officer with knowledge regarding report made by Dolores Lozano on November 12, 2013 regarding assault which reportedly occurred on October 20, 2013 involving her roommate; knowledge regarding information provided by Dolores Lozano on November 12, 2013 regarding assault reportedly occurring on October 20, 2013.

Officer Rhonda Curtis (Live)

3115 Pine Avenue
Waco, Texas 76708
(254) 750-7500

Waco Police Department Officer with knowledge regarding incident occurring on January 18, 2015 at the Louann Condominiums in Waco, Texas involving a reported assault on Dolores Lozano; by

physical contact on Dolores Lozano; knowledge regarding Waco Police Department incident/case number 15-1013.

Jennifer Kerr Chafin (Live)

4208 Oakbrook Drive
Oklahoma City, OK 73115

Knowledge of an altercation in January 2015 with Dolores Lozano and knowledge of communications with Lozano about Devin Chafin.

Cary Gray (Deposition)

Gray Reed
1300 Post Oak Blvd.
Suite 2000
Houston, Texas 77056
713-986-7000

Mr. Gray was a member of the Baylor Board of Regents. He has knowledge of the board's commitment to ensuring university compliance with Title IX. He has general knowledge of the Pepper Hamilton investigation and knowledge of employment decisions made after that investigation. His knowledge is reflected in his deposition transcript.

Brent Howell (Deposition)

Former Investigator, Baylor University Police Department
264 Southern Breeze Road
Lorena, Texas 76655
(254) 749-7844

Howell served as a police officer in the Baylor University Police Department. He communicated with Judicial Affairs and the City of Waco police regarding a report by Dolores Lozano regarding Devin Chafin.

Dr. Jim Marsh (Live)

Executive Director for Counseling Services, Baylor University
c/o Lisa A. Brown
Thompson & Horton LLP
3200 Southwest Freeway, Suite 2000
Houston, Texas 77027

Dr. Marsh has knowledge of the programs and services available at the Baylor University Counseling Center.

Dr. Monique Marsh-Bell (Live)

Dr. Bob Smith Health Center
Southern Methodist University
6211 Bishop Boulevard
Dallas, Texas 75205

Dr. Marsh-Bell provided counseling services to Plaintiff at the Baylor University Counseling Center in 2014. Her knowledge is reflected in the counseling records that were produced in this case.

Detective Terry Meals (Deposition)

3115 Pine Avenue
Waco, Texas 76708
(254) 750-7500

City of Waco Police Department Detective with knowledge regarding Waco Police Department incident report/case number 14-7098; knowledge regarding information provided by Dolores Lozano and Madison Thein; knowledge regarding efforts to contact and follow up with Dolores Lozano

Officer Kurt Morsbach (Live)

3115 Pine Avenue
Waco, Texas 76708
(254) 750-7500

Waco Police Department officer who may have knowledge regarding report made by Dolores Lozano on April 11, 2014 regarding incident that reportedly occurred on April 5, 2014 and incident reportedly occurring on March 6, 2014; knowledge regarding interview and interaction with Dolores Lozano and Madison Thein on April 11, 2014.

Mr. David Murdock (Live)

c/o Lisa Brown
Thompson & Horton LLP
3200 Southwest Freeway
Houston, Texas 77027
713-554-6741

Murdock is the Associate Director for Student Conduct Administration (Judicial Affairs) at Baylor University. Murdock has knowledge of student conduct administration and Title IX awareness and prevention programs. He has knowledge of his communications with Plaintiff regarding her complaints about a basketball player.

Ron Murff (Live)

c/o Lisa A. Brown
Thompson & Horton LLP
3200 Southwest Freeway, Suite 2000
Houston, Texas 77027

Mr. Murff is a former member of the Baylor University Board of Regents. He has knowledge of the board's commitment to ensuring university compliance with Title IX. His knowledge is reflected in his deposition transcript.

Mack Rhoades (Live)

c/o Lisa A. Brown
Thompson & Horton LLP
3200 Southwest Freeway
Houston, Texas 77027
713-554-6741

Rhoades is the current Athletic Director for Baylor University. Rhoades has knowledge regarding Devin Chafin's re-enrollment in 2020 to finish his degree program. His knowledge is reflected in his deposition transcript.

Dr. Cheryl Wooten (Live)

Thompson & Horton LLP
c/o Lisa A. Brown
Thompson & Horton LLP
3200 Southwest Freeway, Suite 2000
Houston, Texas 77027

Dr. Wooten is a Baylor psychologist who served on the Sexual Assault Advisory Board at Baylor University. She has knowledge of sexual assault prevention efforts at Baylor.

The University reserves the right to supplement its witness list, in good faith, as necessary or appropriate. In the event there are other witnesses to be called at the trial, their names, addresses, and the subject matter of their testimony shall be reported to opposing counsel and counsel for the other Defendants as soon as they are known. This restriction shall not apply to rebuttal or impeachment witnesses, the necessity of whose testimony may not be reasonably anticipated before the time of trial.

III. RETAINED EXPERT WITNESSES

Pursuant to the Court's scheduling order and Federal Rule of Civil Procedure 26(a)(2), Defendant Baylor University submits this list of expert witnesses who will be called to testify at trial:

Dr. Jeff Temple

Forensic Psychology Consultants LLC
13023 Water Ridge Drive
McCordsville, IN 46055

Defendant Baylor University's retained expert witness. Dr. Temple will testify regarding his knowledge of his examination of Plaintiff and records that he reviewed. He will provide opinions regarding her current, past, and future mental health. Dr. Temple's knowledge and opinions are reflected in his written report.

Dr. Julia Babcock

4010 Blue Bonnet no. 202
Houston, Texas 77025

Plaintiff's retained expert witness. Dr. Babcock will testify regarding her knowledge of her examination of Plaintiff. Dr. Babcock's knowledge and opinions are reflected in her report.

The University reserves the right to call as a witness any person designated as an expert by Plaintiff. The University further reserves the right to call as a witness undesignated or rebuttal expert witnesses whose testimony cannot reasonably be foreseen until Plaintiff presents her case-in-chief. The University also reserves the right to designate additional experts upon its review of additional documents produced by Plaintiff.

IV. PLAINTIFF'S TREATING PHYSICIANS & MENTAL HEALTHCARE PROVIDERS

The following treating physicians and mental healthcare providers may testify as experts pursuant to Federal Rule of Evidence 702 and, although actual medical records have been obtained, in accordance with Federal Rule of Civil Procedure 26(2)(C)(i)(ii) the subject matter of each witness is as follows:

Allied Medical Centers, including but not limited to representatives, agents, and the Custodian of Records
403 N. York Street
Houston, Texas 77003

Memorial Hermann Medical Group Pearland, including but not limited to representatives, agents, and the Custodian of Records
826 Heights Boulevard
Houston, Texas 77007
(713) 650-1800

Nick Finnegan Counseling Center, including but not limited to representatives, agents, and the Custodian of Records
Heather Timmis, M.A., LMFT
St. Luke's United Methodist Church
2714 Joanel Street
Houston, Texas 77027-5304
(713) 402-5048

Plaintiff's therapist/mental healthcare provider regarding diagnosis and treatment provided and issues discussed as reflected in Plaintiffs' health records.

QualCare Rehabilitation, including but not limited to representatives, agents, and the Custodian of Records

Karla Solis-Auces
1120 Dennis Street
Houston, Texas 77004
Plaintiff's medical provider.

Provider may discuss treatment provided and issues discussed as reflected in Plaintiffs' health records.

Texas Children's Hospital, including but not limited to representatives, agents, and the Custodian of Records

Health Information Management
6621 Fannin Street, Suite A1195
Houston, Texas 77030

Provider may discuss treatment provided and issues discussed as reflected in Plaintiffs' health records.

V. DEFENDANT'S EXPERT DESIGNATION FOR ATTORNEY'S FEES

Pursuant to the Scheduling Order and Federal Rule of Civil Procedure 26(a)(2), the University submits its expert designation with respect to any claim by opposing counsel for recovery of attorneys' fees. This will include, but is not limited to, testimony relating both to billable rates and to fees and costs claimed. The experts' testimony will be dependent upon the opinions expressed by an expert presented by Plaintiff on the subject of attorneys' fees and costs. The experts' professional biographies may be located at www.thompsonhorton.com.

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Geoffrey D. Weisbart

Weisbart Springer Hayes
212 Lavaca Street, Suite 200
Austin, Texas 78701
(512) 652-5780

The University reserves the right to supplement this designation and/or designate additional experts as may become apparent and/or necessary through continued discovery or consolidation or joinder of new claims. Defendant reserves the right to elicit, by way of cross-examination, opinion testimony from experts designated and called by other parties to the suit.

The University reserves the right to withdraw the designation of any expert and to aver positively that any such previously designated expert will not be called as a witness at trial, and to re-designate same as a consulting expert, who cannot be called by opposing counsel.

Defendant Baylor University reserves the right to supplement its witness list in good faith, as necessary or appropriate. In the event there are other witnesses to be called at trial, their names, addresses, and the subject matter of their testimony shall be reported to opposing counsel as soon as they are known. This restriction shall not apply to rebuttal or impeachment witnesses, the necessity of whose testimony may not reasonably be anticipated before the time of trial.

Respectfully submitted,

THOMPSON & HORTON LLP

By: /s/ Lisa A. Brown

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**COUNSEL FOR DEFENDANT
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing pleading was served upon opposing counsel on September 15, 2023, via the Court's ECF/CMF electronic filing and service system as follows:

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